

Chapter 41

SEXUAL HARASSMENT & DISCRIMINATION

[HISTORY: Adopted by the Mayor and Council of the City of Seat Pleasant 1-10-1994 as Ord. No. 94-02. Amendments noted where applicable.]

§ 41-1. Policy.

The City of Seat Pleasant policy is to provide a professional, business-like work environment free from all forms of employee discrimination, including incidents of sexual harassment. No employee shall be subjected to unsolicited and unwelcome sexual overtures or verbal or physical conduct of a sexual nature. Sexual harassment will be treated as misconduct with appropriate disciplinary sanctions.

§ 41-2. Purpose.

Under Title VII of the Civil Rights Act of 1964 and similar state statutes, sexual harassment in the workplace constitutes unlawful employment discrimination which may give rise to liability against both the employee and the harasser whether the harasser is a supervisory-level employee or a coemployee of the complainant. The purpose of this chapter is to define sexual harassment, establish department policy concerning allegations of sexual harassment and establish appropriate reporting procedures.

§ 41-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

SEXUAL HARASSMENT — Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
- B. Submission to or rejection of such conduct by an employee is used as a basis for employment decisions affecting the employee; or
- C. The conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.
- D. By way of illustration only, some examples of conduct which could constitute "sexual harassment" in the workplace under certain circumstances would include but not necessarily be limited to the following:
 - (1) Sexual comments, attempts at humor or innuendoes of a provocative or suggestive nature.

- (2) The leaving of sexually explicit books, magazines or photographs in the workplace.
- (3) Unwelcome demeaning comments, ridicule, offensive language, propositions or other similar actions.
- (4) Unwanted, unwarranted or unsolicited off-duty telephone calls and conduct.
- (5) Hiring or promoting an employee in exchange for sexual favors or transferring, demoting or dismissing employees who refuse such sexual advances.
- (6) "Sexual harassment" may include sexual propositions, sexual innuendoes, suggestive comments, sexually oriented "kidding" or "teasing," practical jokes, jokes about gender-specific traits, foul or obscene language or gestures and unwanted physical contact.

§ 41-4. Supervisor and employee responsibilities.

- A. Each supervisor shall be responsible for preventing acts of harassment. This responsibility includes:
 - (1) Monitoring the unit work environment on a daily basis for signs that harassment may be occurring.
 - (2) Counseling all employees in the types of behavior prohibited and the agency procedures for reporting and resolving complaints of harassment.
 - (3) Stopping any observed acts that may be considered harassment and taking appropriate steps to intervene, whether or not the involved employees are within his/her line of supervision.
 - (4) Taking immediate action to limit the work contact between two employees where there has been a complaint of harassment, pending investigation.
- B. Each supervisor has the responsibility to assist any employee of this agency who comes to that supervisor with a complaint of harassment, pending investigation.
- C. Each employee of this agency is responsible for assisting in the prevention of harassment through the following acts:
 - (1) Refraining from participation in, or encouraging of, actions that could be perceived as harassment.
 - (2) Reporting acts of harassment to a supervisor.

§ 41-5. Reporting and investigating procedures; grievances.

- A. Any employee who believes that he/she is being harassed shall report the incident(s) to his/her supervisor as soon as possible so that steps may be taken to protect the employee from further harassment and appropriate investigative and disciplinary measures may be initiated. Where it is not practical to report the

incident(s) to the immediate supervisor (such as where the supervisor is unavailable or where the allegation of misconduct involves the supervisor), the employee may instead report the incident(s) to another supervisor, to the internal investigating authority or the chief executive officer of the agency. If the allegation involves the chief executive officer, Council person, City Administrator or department head, the complainant should present the allegation without delay the City Attorney.

- B. Any complaint of sexual harassment will be promptly and thoroughly investigated by the City Administrator or the designated internal investigation authority (or the appointing authority, if applicable) to verify whether a violation of law and a city's policy has occurred. Where the allegations are verified, prompt and appropriate corrective action and disciplinary measures, up to and including dismissal, will be implemented.
- C. The City Administrator (or appointing authority, if applicable) shall inform the parties involved of the outcome of the investigation.
- D. An employee reporting an incident of sexual harassment or assisting, testifying or participating in the investigation of such a complaint shall not be subject to any adverse employment action unless it is determined that the employee made the allegation knowing it was false.
- E. Complainants or employees accused of harassment may file a grievance in accordance with the city procedures, as outlined in the Handbook for Employees, when they disagree with the investigation or the disposition of a harassment claim.
- F. The city prohibits retaliation against anyone who reports harassment.